

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

EUGENE G. PETTIT,

Plaintiff,

v.

Civ. No. 23-367 GJF

CHRISTOPHER HERNANDEZ SCHALJO,
DIANA MURILLO,
SHANNON REYNOLDS,
MANUEL A. SANCHEZ, and
FNU LNU Nos. 1-x.,

Defendants.

ORDER REGARDING MOTION TO AMEND COMPLAINT AND TO WAIVE FEES

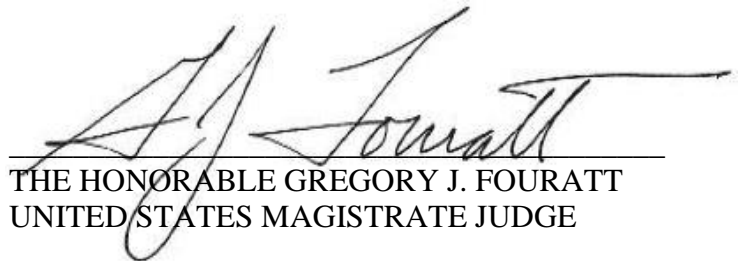
Plaintiff, who is proceeding *pro se*, moves the Court to amend his Complaint. *See* Motion to Amend Complaint and, or to Cure Deficiency, Doc. 6, filed May 15, 2023 (“Motion”). For the reasons explained below, the Court **DENIES AS MOOT** the Motion to amend the complaint.

The Motion’s request to amend is moot because the Court already ordered Plaintiff to file an amended complaint. *See* Doc. 4 (filed May 2, 2023). And insofar as Plaintiff moves “to wave [sic] or remove fees, for equal Justice for all, Request fees be waved [sic], with information already provided, short form,” Motion at 5, the Court denies this request too. Plaintiff fails to cite any legal authority supporting his view that his fees should be waived, and the Court has also found none. *See* Motion at 5 (citing 28 U.S.C. § 1407, which has nothing to do with waiving fees); *but see* 28 U.S.C. § 1914 (instituting a civil action requires the plaintiff to pay a filing fee and other fees). The statute governing proceeding *in forma pauperis* states courts may authorize the commencement of an action *without prepayment* of fees. *See* 28 U.S.C. § 1915(a)(1). The statute does not authorize courts to waive payment of fees entirely.

Plaintiff also filed an Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form). *See* Doc. 5, filed May 2, 2023 (“Short Form Application”). However, the Court already ordered plaintiff, insofar as he seeks to proceed *in forma pauperis*, to file an “Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)” (“Long Form Application”) because the Short Form Application does not provide sufficient information to determine whether a plaintiff is unable to prepay fees and costs. *See* Doc. 4 (instructing the Clerk to send Plaintiff a Long Form Application). Consequently, the Court **DENIES** Plaintiff’s Motion to allow Plaintiff to proceed *in forma pauperis* because the information in Plaintiff’s Short Form Application provides an insufficient basis to determine Plaintiff’s potential indigency.

IT IS THEREFORE ORDERED that Plaintiff’s Motion to Amend Complaint and, or to Cure Deficiency, Doc. 6, filed May 15, 2023, is **DENIED**. Plaintiff’s amended complaint and Long Form Application remain due by **May 23, 2023**. Failure to timely file an amended complaint and comply with the Court’s orders may result in dismissal of this case. Failure to timely file a Long Form Application may result in denial of Plaintiff’s request to proceed without prepaying fees.

SO ORDERED.



THE HONORABLE GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE